



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

JUN 12 2014

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Article Number: 70010320000477888841

Mr. Louis G. Marcoccia
Executive Vice President and Chief Financial Officer
Syracuse University
Crouse Hinds Hall, Suite 620
Syracuse, New York 13244-2130

Re: Syracuse University (Bird Library) - Approval for Risk-Based Cleanup and Disposal of Polychlorinated Biphenyl Remediation Waste


Dear Mr. Marcoccia:

Enclosed, please find the United States Environmental Protection Agency's (EPA) response to and approval of Syracuse University's (University) request for risk-based disposal of polychlorinated biphenyl (PCB) remediation waste, for the Bird Library located on the University's Main Campus in Syracuse, New York. The enclosed approval is issued in accordance with the federal regulations for PCBs promulgated pursuant to the Toxic Substances Control Act, 15 U.S.C. §2601 *et seq.*, and the regulations set forth in Part 761 of Title 40 of the Code of Federal Regulations (40 C.F.R. Part 761).

Please note that the approval shall become effective on the date the Regional Administrator of EPA Region 2 receives written notification from Syracuse University, signed by an authorized representative of the University indicating acceptance of and intention to comply with the conditions of the approval. This offer may be withdrawn if EPA Region 2 does not receive written notification from the University of its acceptance of, and intention to comply with, the conditions and terms of this approval within 45 days of the date of this approval letter.

Should you have any questions concerning this matter, please contact James S. Haklar at (732) 906-6817.

Sincerely yours,


Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosure

**U.S. Environmental Protection Agency
Region 2**

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In the Matter of:	:	Approval for Risk-Based Cleanup
	:	and Disposal of
Syracuse University	:	Polychlorinated Biphenyl Remediation Waste
Bird Library	:	
Syracuse, New York	:	
-----X		

This document is the United States Environmental Protection Agency, Region 2's ("EPA Region 2") response to and approval of the request for a risk-based cleanup and disposal of polychlorinated biphenyl ("PCB") remediation waste at the Syracuse University ("Syracuse") Main Campus located in Syracuse, New York. The disposal approval request by Syracuse, dated October 27, 2011 and amended thereafter, addresses the presence of residual PCBs in an approximately 9,500 square foot area of the concrete basement floor of the Bird Library on Syracuse's Main Campus (said portion of the Bird Library also referred to as the "Site"). EPA Region 2's approval is issued in accordance with the federal regulations for PCBs promulgated pursuant to the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §2601 *et seq.*, and the regulations set forth in Part 761 of Title 40 of the Code of Federal Regulations (40 C.F.R. Part 761). In EPA Region 2, the authority to issue such approvals under 40 C.F.R. §761.61(c)(2) has been delegated to the Director of the Division of Enforcement and Compliance Assistance ("DECA").

The completed application that EPA Region 2 considered in determining whether to approve Syracuse's request consists of the following:

- The October 27, 2011 request for a risk-based cleanup and disposal approval;
- Addendum No. 1, dated March 2, 2012, which includes as an exhibit the "Risk-Based Clearance Criteria" report prepared by Dr. Anthony DeCaprio dated October 2011 (and revised January 2012); and
- Addendum No. 2, dated November 8, 2012, which incorporates by reference an Operation, Maintenance & Monitoring ("OM&M") Plan (as revised by e-mail submittal dated February 8, 2013 from Barry R. Kogut, Esq. to James S. Haklar, Ph.D. of EPA Region 2).

Syracuse's October 27, 2011 Request, Addendum No. 1, and Addendum No. 2 (as revised) are referred to herein as the "Application."

EPA Region 2 reviewed Syracuse's Application to determine whether the remedial actions proposed in the Application would be protective of human health and the environment, and technically feasible and appropriate. EPA Region 2 has also reviewed Syracuse's Application to ensure that safeguards, including long-term maintenance and monitoring commitments, associated with the remediation of the Site will be in place.

Based on the information provided in the Application, EPA Region 2 has determined that implementation of the remedial actions proposed in the Application to address the presence of residual PCBs at the Site will not pose an unreasonable risk of injury to human health or the environment.

EPA hereby issues approval for the risk-based remediation of residual PCBs at the Site, subject to the terms and conditions specified herein. This approval is being issued under the authority granted to EPA by TSCA as codified in 40 C.F.R. §761.61(c). This approval also constitutes an order issued under the authority of Section 6 of TSCA, 15 U.S.C. §2605.

1. Effective Date and Review Date

This approval shall become effective on the date the Director of DECA, EPA Region 2 receives written notification from Syracuse, signed by an authorized representative of Syracuse, of its acceptance of and intention to comply with the terms and conditions of this approval. This offer may be withdrawn if EPA Region 2 does not receive, within forty-five (45) calendar days of the date of this approval letter, written notification from Syracuse of its acceptance of, and intention to comply with, the terms and conditions of this approval.

EPA Region 2 may review this approval no later than five years from its effective date. At that time, if EPA Region 2 finds that continued implementation of the remedial measures approved herein presents an unreasonable risk to human health or the environment, EPA Region 2 may modify, suspend, or revoke this approval, and EPA Region 2 may exercise any such authority in whole or in part. Alternatively, EPA Region 2 may request further information to make such a determination.

2. Description of the Site and the Extent of PCB Contamination

The portion of the Bird Library addressed by this approval is approximately 9,500 square feet in area and located in the basement of the library building (see sketch of the Site in Exhibit A of the OM&M Plan). In the summer of 2009, Syracuse conducted a floor refinishing project in the basement of the library building. This work was performed in connection with a project for the installation of classrooms in a portion of the renovated area. After the floor refinishing project was complete, waste material from the project was sampled and found to contain PCBs above 50 parts per million ("ppm"). After performing an assessment of the potential sources of PCBs, Syracuse determined that the source was mastic (i.e., adhesive) from the original carpet.

During 2009 and 2010, Syracuse collected concrete samples from the basement floor. The highest level of PCBs found in these samples was 8.9 ppm. Wipe samples of the basement floor were also collected by Syracuse in 2009, 2010 and 2011. With the exception of the areas where the concrete floor met the walls and columns, all post-cleaning sample results from the floor were less than 10 micrograms per 100 square centimeters ("10 ug/100cm²"). In the locations where the concrete floor met the walls and columns, PCBs were found up to 91 ug/100 cm². In 2011, Syracuse also collected wipe samples of dust above the drop ceiling located in the basement, and found PCBs at levels up to 18 ug/100cm².

It should be noted that the surface wipe sampling of the floor performed by Syracuse to date has shown that, with the exception of: (1) the area of the basement known as the Nook¹ and (2) areas of the basement floor not amenable to refinishing², the refinished floor is serving as an effective barrier to the PCBs remaining in the concrete.

The Site contains PCB remediation waste, as defined in 40 C.F.R. §761.3, that exceeds the cleanup levels under the federal PCB regulations at 40 C.F.R. §761.61. Air testing by Syracuse in September 2009 and June 2011 did not find any detectable levels of PCBs in the basement air at the designated reporting limits.

3. Work to be Performed

The work to be completed is described in detail in the Application, and shall include, but it is not limited to, the following components:

- 1) Encapsulation with the epoxy floor coating, as specified in the Application, of: (a) the area of the basement floor known as the Nook¹, (b) the Unrefinished Floor Areas², and (c) other Syracuse-designated areas of the refinished floor that do not have the same bright finish due to the nature of the concrete pour during the construction of the library;
- 2) Disposal of PCB-contaminated debris, from the demolition of a portion of the basement ceiling and construction of classrooms, in accordance with the Application and this approval;
- 3) Long-term maintenance of the refinished and encapsulated portions of the floor to ensure that they remain an effective barrier to the residual PCBs; and
- 4) Long-term monitoring, through collection of surface wipe samples from the floor and air samples in the basement to verify that the risk-based clearance values of 3.1 ug/100 cm² and 359 nanograms per cubic meter, respectively, have not been exceeded.

Within thirty (30) calendar days after this approval becomes effective, Syracuse shall submit to EPA Region 2 a detailed schedule for performing the remedial work and the commencement of the long-term monitoring to be performed under the OM&M Plan. To the extent that Syracuse hires any sub-contractor, independent agent or other third party to perform said work, Syracuse shall be responsible to ensure that any such sub-contractor, independent agent or other third party perform said work in accordance with the terms and conditions of Syracuse's Application and this approval.

1 The Nook is an open recessed hallway off the main floor, approximately 7 ft x 19.5 ft., which is used to gain access to mechanical/storage rooms.

2 These areas are approximately 0.5-1.0 inch in width around the perimeter of the floor, around 9 support columns, and at both sides of the main stairway base; and an area underneath the main stairway that is approximately 16 inches in width, referred to herein collectively as Unrefinished Floor Areas.

4. Periodic Reporting Requirements

Syracuse shall provide EPA Region 2 with an update, every three (3) months, of the status of the remedial actions performed in accordance with the EPA-approved schedule referenced in Section 3 of this approval (Work to be Performed).

Beginning the first July following the completion of the work identified in Section 3 and continuing every July thereafter, Syracuse shall submit to EPA Region 2, no later than July 31, an annual written summary report (the "Annual Report") covering the previous reporting period (July 1 through June 30). The Annual Report shall provide the information identified in the EPA-approved OM&M Plan which was submitted as part of Addendum No. 2. Following Syracuse's submittal of the Annual Report for the year ending June 30, 2023, Syracuse may request, in writing, revision or elimination of the annual reporting requirement. EPA will confer with Syracuse as appropriate prior to responding to Syracuse's request.

5. Remedial Action Report

Within sixty (60) calendar days of completing the work specified in Section 3 of this approval (Work to be Performed), except for long-term maintenance and monitoring, Syracuse shall submit to EPA Region 2 a Remedial Action Report ("RAR") that includes the following:

- 1) A detailed description of the specific activities performed to address the PCB contamination present on the Site;
- 2) A tabular summary (with supporting laboratory documentation) of the results of all sampling conducted in connection with the remedial work;
- 3) Documentation of off-site disposal of any PCB remediation waste that is removed from the Site;
- 4) "As-built" figures depicting conditions at the Site after the remedial work has been completed; and
- 5) A certification, signed by a professional engineer licensed by the State of New York and on behalf of Syracuse, verifying that all work directed by this approval has been completed in accordance with this approval.

6. Inspection, Maintenance and Related Reporting Obligations

Syracuse shall visually inspect the floor on no less than an annual basis as set forth in the OM&M Plan, and maintain it as needed. If necessary, the floor shall be repaired within sixty (60) calendar days of the verification of damage or other loss of integrity. Until the repairs are completed, Syracuse shall implement sufficient measures to isolate the affected area to prevent the migration of material potentially containing PCBs.

Within fourteen (14) calendar days of completion of repairs, Syracuse shall submit to EPA Region 2 the following information:

- 1) Notification that the encapsulated or refinished area of the floor had been breached or otherwise suffered damage or loss of integrity, including a description of the specific breach, damage, or loss;
- 2) The steps that had been taken to prevent further damage or loss of integrity that occurred to the encapsulant or refinished floor; and
- 3) The steps taken to prevent a repeat of the specific breach or damage.

7. Records

As long as PCB remediation waste is present on the Site, Syracuse shall maintain the following records:

- 1) The final construction drawings and any other construction-related documents; and
- 2) All records and information related to characterization, analysis³, shipping and disposal of materials associated with the cleanup, and the long term monitoring.

8. Deed Restriction and Certification to EPA

Within sixty (60) calendar days of completion of the work identified in Section 3 (Work to be Performed), Syracuse shall do the following:

- 1) Prepare and record a Deed Notice with the County Clerk's Office, Onondaga County, New York State in accordance with 40 C.F.R. §761.61(a)(8) and applicable New York law. The Deed Notice shall, at a minimum, include a description of the extent of contamination found at the Site; a description of the work performed including the encapsulation remedy; the restrictions on use included in Section 10 of this approval; a description of the inspection, maintenance, and reporting requirements associated with this approval; and a copy of this approval, appended as an attachment.
- 2) Submit to the Director of DECA, EPA Region 2 a certification signed by an authorized representative of Syracuse indicating that Syracuse has recorded the Deed Notice as required by 40 C.F.R. §761.61(a)(8) and specified in subparagraph (1) of this Section.

9. Sale of the Site

Until such time as the work required under this approval has been completed, Syracuse shall not sell or lease any portion of the Site (or the Site in its entirety) unless Syracuse notifies EPA Region 2, in

³ Syracuse shall use an appropriately sensitive and selective testing method from the latest update of the document entitled: "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," also known as SW-846, or validated equivalent, or as otherwise specified in this approval.

writing, no later than thirty (30) calendar days prior to any such sale or leasing arrangement. This notification shall include the name, address and telephone number of the proposed new owner(s) or lessee(s). In the event that Syracuse sells or leases any portion of the Site (or the Site in its entirety), Syracuse shall continue to be bound by all the terms and conditions of this approval, and be responsible to ensure the timely and satisfactory completion of all work required thereunder, unless the following occurs:

- 1) The new owner or any lessee requests, in writing, that EPA Region 2 reissue this approval to the new owner or lessee, transferring all responsibility to comply with the terms and conditions of this approval to the new owner or lessee;
- 2) EPA Region 2 reissues this approval to the new owner or any lessee, transferring all responsibility to comply with the terms and conditions of this approval to the new owner or lessee; and
- 3) The new owner or any lessee provides written notification to EPA Region 2 of its acceptance of and intention to comply with the terms and conditions of the reissued approval. EPA Region 2 may withdraw the reissued approval if it does not receive written notification from the new owner or lessee of its acceptance of, and intention to comply with, the terms and conditions of the reissued or as modified approval within forty-five (45) calendar days of the date of the reissued or as modified approval. Where EPA Region 2 has withdrawn the reissued or as modified approval, this approval, as originally issued to Syracuse, will remain in effect. In such case, Syracuse shall provide EPA Region 2, in writing, documentation that Syracuse will be afforded access to the Site, as necessary, to fulfill any and all obligations included in this approval.

In the event that the three conditions listed above are met and the approval is reissued to and accepted by a new owner or lessee, Syracuse will transfer custody of the documents required to be preserved pursuant to 40 C.F.R. Part 761.

10. Restrictions on Use

As long as PCB remediation waste is present on the Site, Syracuse may not use any area of the Site for purposes other than activities pertaining to a library or classrooms. It is assumed that individuals who are not building construction/renovation workers, college-age students, instructional faculty, library employees, or full/part-time Library custodial/maintenance staff will only be present on an incidental basis.

11. Modifications and Changes in Use

Any proposed modification to any of the terms or conditions of this approval, whether expressly stated herein or incorporated by reference, will be presumed to be a major modification and thus must receive prior written approval from the Director of DECA, EPA Region 2, unless Syracuse demonstrates in writing to the satisfaction of EPA, or EPA separately determines, that a proposed modification warrants being classified as minor, in which case such proposed modification may be authorized in writing by the Chief of the Pesticides and Toxic Substances Branch of DECA, EPA Region 2. Whether a proposed modification is classified as major or minor shall be a decision vested solely in the discretion of EPA Region 2 and any such decision shall be final.

Syracuse shall notify EPA Region 2 in writing of any such proposed modification at least sixty (60) calendar days prior to the anticipated date for implementation of the modification unless EPA agrees in writing to shorten the prior notice period. No action shall be taken to implement any such modification unless EPA Region 2 has approved the modification in writing. EPA Region 2 may request additional information in order to determine whether or not the modification should be approved. If a modification were to involve a change in the use of the Site, EPA Region 2 may revoke, suspend and/or modify this approval if it determines that Syracuse's proposed modification, if approved, may pose an unreasonable risk to human health or to the environment resulting from the change in use, or if EPA Region 2 does not receive the information from Syracuse that it feels it needs to assess and/or make a determination regarding such potential risk.

12. EPA Region 2 Entry and Inspection

By signing this Approval, Syracuse consents to EPA Region 2's authorized representatives entering the Site at reasonable times for any purpose authorized by Section 11 of TSCA, 15 U.S.C. §2610, including:

- 1) To inspect the Site to assess compliance with this approval and/or the federal PCB regulations;
- 2) To inspect records related to this approval and/or federal PCB regulations; and
- 3) To collect samples to assess compliance with this approval and/or the federal PCB regulations. Syracuse will be given the opportunity to split samples collected by EPA Region 2 representatives, provided this does not compromise EPA Region 2's sampling activities or the samples which EPA Region 2 collects.

Any refusal to allow any of the above actions may result in the suspension and/or revocation of this approval.

13. Confidential Business Information

Information supplied to EPA is generally available to the public under the Freedom of Information Act, 5 U.S.C. §552, and the regulations at 40 C.F.R. Part 2. As provided in Section 14(c) of TSCA, Syracuse may claim information provided to EPA Region 2 to be Confidential Business Information (CBI) provided it complies with the substantive criteria in 40 C.F.R. §2.208. Information designated as CBI will be disclosed by EPA Region 2 only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2.

Factors that EPA Region 2 considers in determining whether a claim of CBI is valid, in the event that a claim is evaluated, are set out in 40 C.F.R. §2.204(e)(4). These factors include but are not limited to the following:

- 1) The company has taken measures to protect the confidentiality of the information, and it intends to continue to take such measures;

- 2) The information is not, and has not been, reasonably obtainable without the company's consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on showing of special need in a judicial or quasi-judicial proceeding);
- 3) The information is not publicly available elsewhere; and
- 4) Disclosure of the information would cause substantial harm to the company's competitive position.

The information requested under this approval concerns the proper handling of PCB material and is not expected to involve CBI. However, in the event that information is claimed to be CBI by Syracuse, it must be clearly identified as such on the documents submitted.

14. Addresses for Correspondence

1) EPA Addresses.

- (a) All non-CBI correspondence to be submitted to EPA Region 2 shall be sent via certified mail or next-day commercial carrier to:

James S. Haklar, Ph.D., Senior PCB Disposal Specialist
Pesticides and Toxic Substances Branch
United States Environmental Protection Agency, Region 2
2890 Woodbridge Avenue (MS-105)
Edison, New Jersey 08837-3679
Telephone: (732) 906-6817; Facsimile: (732) 321-6788

- (b) The address for submission of CBI information (via certified mail or next-day commercial carrier) is:

Michael Bious, Document Control Officer
Pesticides and Toxic Substances Branch
United States Environmental Protection Agency, Region 2
2890 Woodbridge Avenue (MS-105)
Edison, New Jersey 08837-3679
Telephone: (732) 906-6892; Facsimile: (732) 321-6788

- 2) Syracuse Address. All correspondence to Syracuse shall be submitted to the following Syracuse representative:

David E. Pajak, M.B.A, DRM, A.R.M.
Director of Risk Management and Chief Emergency Management Officer
Syracuse University
Risk Management Office
Skytop Office Building/Room 104
Syracuse, New York 13244-5334

- 3) The EPA and Syracuse reserve the right to designate additional or different addressees for communication upon written notice to each other.

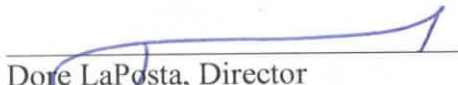
15. Conclusion

Based on the information included in Syracuse's Application, EPA Region 2 finds that the PCB cleanup and disposal authorized by this approval will not present an unreasonable risk to human health or the environment. Acceptable concentrations of PCB material remaining on-site under this approval are based on a site-specific risk determination pursuant to TSCA, and are not applicable to any other site. Notwithstanding any other provision of this approval, this approval may be revoked, suspended and/or modified at any time before or after Syracuse's acceptance thereof if EPA Region 2 determines that implementation of this approval may present an unreasonable risk of injury to human health or the environment. Nothing in this approval is intended or shall be construed to prejudice any right or remedy otherwise available to EPA (or the United States on behalf of EPA) under Section 6 of TSCA, 15 U.S.C. §2605, and 40 C.F.R. Part 761, or under other applicable law.

This approval, issued pursuant to 40 C.F.R. §761.61(c), is based upon Syracuse having provided EPA Region 2 with a complete and truthful disclosure of all material facts related to the Site in its Application. The misrepresentation or omission by Syracuse of any material fact in its Application or in any document associated with or supporting this approval may result in EPA Region 2's revocation, suspension and/or modification of this approval, and such other legal or equitable remedy, either civil or criminal, that EPA (or the United States on behalf of EPA) may choose to pursue under applicable law.

Syracuse's acceptance of this approval constitutes Syracuse's agreement to comply with:

- 1) All terms and conditions of this approval; and
- 2) All applicable provisions of federal, state and local law pertaining to the Site. This approval only specifies the applicable requirements under TSCA and does not cite to or make any determination regarding the requirements that may be applicable under other federal, state or local law. TSCA disposal requirements do not supersede other, more stringent, applicable federal, state or local laws, including any applicable requirements under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and its amendments. Any failure by Syracuse to comply with any condition or term of this approval shall constitute a violation of the approval, which has been issued pursuant to 40 C.F.R. §761.61(c). Any such violation is made unlawful by Section 15(1)(C) of TSCA, 15 U.S.C. §2614(1)(C), and may result in EPA Region 2's revocation, suspension and/or modification of this approval, and such other legal or equitable remedy that EPA Region 2 (or the United States on behalf of EPA) may choose to pursue under applicable law.


Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

JUNE 12, 2014
Date

